City Council Staff Report

DATE: September 16, 2020
AGENDA ITEM NO: **Public Hearing Agenda Item 4-A**

TO: Honorable Mayor and Members of the City Council

FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner

SUBJECT: Consideration and possible action to introduce and waive first reading of an Ordinance adding a new Chapter 21.50 entitled "Accessory Dwelling Units" to the Monterey Park Municipal Code pursuant to Government Code §§ 65852.2 and 65852.22

RECOMMENDATION:

It is recommended that the City Council:

1. Open the continued public hearing, take testimonial and documentary evidence and, after considering the evidence, introduce and waive first reading of the Ordinance; and/or
2. Take such additional, related action that may be desirable.

EXECUTIVE SUMMARY:

At the September 2, 2020 meeting, the City Council continued this public hearing to September 16, 2020. The original staff report and accompanying documents are attached hereto (September 2, 2020 City Council Agenda Item 2B and its attachments nos. 1-3).

Respectfully submitted and prepared by:

Mark A. McAvoy
Director of Public Works/City Engineer/City Planner

Approved by:

for Ron Bow
City Manager

Reviewed by:

Natalie C. Karpeles
Deputy City Attorney

ATTACHMENTS

A. September 2, 2020 Staff Report and Attachments

ATTACHMENT A

September 2, 2020 Staff Report and Attachments (Item No. 2B and its attachments Nos. 1-3)

City Council Staff Report

DATE: September 2, 2020
Public Hearing
AGENDA ITEM NO: **Agenda Item 2-B**

TO: The Honorable Mayor and City Council

FROM: Mark A. McAvoy, Director of Public Works/City Engineer/City Planner

SUBJECT: Consideration and possible action to introduce and waive first reading of an Ordinance adding a new Chapter 21.50 entitled "Accessory Dwelling Units" to the Monterey Park Municipal Code pursuant to Government Code §§ 65852.2 and 65852.22

RECOMMENDATION:

It is recommended that the City Council:

1. Open the public hearing, take testimonial and documentary evidence and, after considering the evidence, introduce and waive first reading of the Ordinance; and/or
2. Take such additional, related action that may be desirable.

CEQA (California Environmental Quality Act):

The Ordinance was revised for compliance with the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; "CEQA Guidelines"). The Ordinance is exempt from additional environmental review pursuant to CEQA Guidelines § 15282(h) because it is an Ordinance implementing the provisions of Government Code §§ 65852.1 and 65852.2 (as set forth in Public Resources Code § 21080.17) regarding accessory dwelling units in a single-family or multifamily residential zone.

EXECUTIVE SUMMARY:

On July 1, 2020, the City Council opted to act as the City's Planning Agency. Government Code §§ 65852.2 and 65852.22 requires the City to amend the Monterey Park Municipal Code ("MPMC") regulations governing accessory dwelling units ("ADUs") and add regulations governing Junior Accessory Dwelling Units ("JADUs"). The draft Ordinance would implement those regulations.

DISCUSSION:

The proposed Ordinance amends the City's existing zoning regulations as follows:

- Adds new definitions for "Efficiency Unit," "Multifamily Dwelling," "Primary Dwelling" and "Tandem parking."

- Development standards:

    - Explains that zones designated for ADUs may be altered based on impacts to water, sewer traffic flow, and public safety;

    - Clarifies that when ADUs are created by converting a garage, carport or covered parking structure, new off-street parking spaces are not required;

    - Removes requirements regarding minimum lot size;

    - Decreases setback requirements, as follows:

        - Rear yard setback is decreased from a minimum 15 feet to not more than four feet; and

        - Side yard setback is decreased from five feet to not more than four feet.

    - Adjusts the allowable maximum and minimum square footage for ADUs;

    - Adjusts the allowable total number of ADUs and JADUs per lot; and

    - Provides standards and clarification regarding the physical location of ADUs and JADUs within existing structures, versus development standards for newly constructed units.

- Creates regulations for JADUs – including a prohibition on any rentals that would violate the MPMC;

- Creates an ADU use-permit application process, which, among other things:

    - Eliminates owner-occupancy requirements for ADUs (until January 1, 2025);

    - Reduces the maximum application review time from 120 days to 60 days;

    - Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger must be proportional to the relationship of the ADU to the primary dwelling unit; and

    - Authorizes a reasonable construction fee (if applicable) and inspection fee.

This Ordinance would be scheduled for second reading and adoption on September 16, 2020.

FISCAL IMPACT:

None.

Respectfully submitted by:

Mark A. McAvoy
Director of Public Works/City Engineer/City Planner

Approved by:

Ron Bow
City Manager

Reviewed by:

Natalie C. Karpeles,
Deputy City Attorney

Attachments:
1. Draft Ordinance
2. Current Accessory Dwelling Unit Provisions (MPMC § 21.08.040)
3. New State Law on Accessory Dwelling Units (Government Code Sections)

ATTACHMENT - 1
Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE ADDING A NEW CHAPTER 21.50 ENTITLED "ACCESSORY DWELLING UNITS" TO THE MONTEREY PARK MUNICIPAL CODE PURSUANT TO GOVERNMENT CODE §§ 65852.2 AND 65852.22.

THE COUNCIL DOES ORDAIN AS FOLLOWS:

SECTION 1. *Findings.* The City Council finds, determines and declares as follows:

A. On October 9, 2019, the Governor signed Assembly Bills 68 and 881, and Senate Bill 13 which impose requirements upon local agencies governing affordable housing units ("ADUs"). These Bills, among other things, amended Government Code §§ 65852.2 and 65852.22 and took effect on January 1, 2020. This Ordinance (the "Project") implements the mandates imposed by California law as to ADUs.

B. The City reviewed the Project's environmental impacts under the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Reg. §§ 15000-15387; "CEQA Guidelines").

C. Notice of a Public Hearing before the City Council was duly given and published in the time, form and manner as required by law.

D. The City Council opened the public hearing at the September 2, 2020 meeting to receive testimonial and written evidence regarding the Project.

E. The City Council considered the information provided by the City Planner, and public testimony. This Resolution, and its findings, are made based upon the evidence presented to the City Council at its September 2, 2020 hearing including, without limitation, the staff report submitted by the City Planner.

SECTION 2. *Monterey Park Planning Agency.* Pursuant to Ordinance No. 2177 adopted July 1, 2020, the City Council will act as the Monterey Park Planning Agency.

SECTION 3. *Zoning Ordinance Text Amendment Findings.* Pursuant to Monterey Park Municipal Code ("MPMC") § 21.38.050, the City Council finds that the public necessity, convenience and general welfare require the changes recommended by this Ordinance. These amendments will promote public health, safety and general welfare by, among other things, providing greater flexibility for the development of ADUs and JADUs (as defined below), and bringing the MPMC into compliance with applicable law.

SECTION 4. *General Plan Findings.* Pursuant to Government Code § 65860, the changes implemented by this Ordinance are consistent with the General Plan. Among other things, this

Ordinance will help implement the following 2014-2021 General Plan Housing Element goals, including:

A. Goal 2 Remove or reduce governmental constraints on affordable housing development.

B. Goal 3 Provide adequate housing by location, type of unit, and price to meet existing and future needs of City residents.

C. Goal 4 Assist in the provision of housing that meets the needs of all economic segments of the community.

D. Goal 5 Promote equal housing opportunities for all residents.

E. As well as, the 2040 General Plan Land Use Element goals, including Goal 6 Accommodating all household sizes and income levels with a variety of housing types.

SECTION 5. The MPMC amendments are intended to eliminate or rectify those regulations that may be inconsistent with Government Code §§ 65852.2 and 65852.22. Ensuring that the City's regulations for ADUs and JADUs are consistent with California law will not frustrate any goal or policy set forth in the General Plan.

SECTION 6. A new Chapter 21.50 entitled "Accessory Dwelling Units" is added to the Monterey Park Municipal Code ("MPMC") to read as follows:

"**Chapter 21.50**

ACCESSORY DWELLING UNITS

21.50.010 **Purpose**. This Chapter is adopted to comply with Government Code §§ 65852.2 and 65852.22 which impose a state mandate that the City implement regulations governing accessory dwelling units ("ADU") and junior accessory dwelling units ("JADU") in accordance with California law. This Chapter will be automatically repealed on December 31, 2029. At that time, all previous regulations governing ADUs will be effective for all purposes.

21.50.020 **Applicability**. An ADU or JADU complying with this chapter meets the lot density requirements of this code and constitute a residential use consistent with applicable land use designations. Any ordinance, policy, or program limiting residential growth is inapplicable to ADUs and JADUs complying with this chapter.

21.50.030 **Definitions.** Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this section. Undefined words and phrases and have the same meaning as set forth in this code or Government Code §§ 65852.2 and 65852.22.

"Carshare vehicle" means is a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization providing hourly or daily service, and where users, who are members that have been preapproved to drive, can rent vehicles for short periods of time.

"Efficiency unit" means a dwelling unit that complies with all of the following:

A. A living area of not less than 150 square feet for at most two persons, or a living room of at least 220 square feet (with an additional 100 square feet for each occupant in excess of two);

B. Additional space for a separate bathroom containing a water closet, lavatory, and bathtub or shower;

C. A separate closet;

D. A kitchen sink, cooking appliance and refrigeration facilities, each having a clear work area of at least 30 inches in front; and

E. Light and ventilation complying with this code.

"Hearing Officer" means the City Manager, or designee who will hear all timely requests for delayed enforcement from a notice of violation.

"Multifamily dwelling" means a building containing two or more dwelling units where each unit is for the use of individual households, and includes an apartment building, townhouse complex, condominium complex, duplex or housing development, but not hotels, motels, boarding houses or public or quasi-public institutions.

"Primary dwelling" means a residential structure on a single parcel with provisions for living, sleeping, eating, a single kitchen for cooking, and sanitation facilities. Where more than one residential structure exists on a lot, the "primary dwelling" will either be the residential structure that was first issued a valid certificate of occupancy, or, when applicable, the largest residential structure on the lot.

"Tandem parking" means two or more automobiles parked in a line, one behind the other.

21.50.040 **Development Standards for ADUs.**

A. The ADU must comply with all additional development standards listed in this Code which are applicable to the zone in which the subject lot is located. Should there be a conflict between the zone development standards and the standards set forth in this section, then the more restrictive applies.

B. One parking space is required per ADU and may be located as tandem parking on a driveway or required setback areas.

C. No replacement off-street parking will be required when a garage or covered parking structure is demolished to create, or is converted into, an ADU.

D. No parking standards will be imposed upon an ADU that is:

1. Within a half mile walking distance of public transit;

2. Located within an architecturally and historically significant district;

3. Part of a proposed or existing primary dwelling or an accessory structure;

4. Located in an area where parking permits are required but not offered to the occupant of the ADU; or

5. Located within one block of a carshare vehicle.

E. No additional curb cuts may be required for the ADU.

F. An ADU must share the driveway with the existing primary unit on the site, provided, however, that a second driveway to serve the accessory dwelling may be allowed from an alley, if there is an alley that serves the subject site.

G. An ADU cannot exceed one story and may not be greater than 18 feet in height, unless additional height is necessary to match the roof pitch of the primary structure.

H. Setbacks.

1. When an ADU is constructed within the following parameters it is exempt from minimum setback requirements within this code: (a) within the existing living area of a primary dwelling; (b) within an existing accessory structure; or (c) within the same location and same dimensions as an existing structure. The existing structure may be converted into an ADU or may be demolished and rebuilt as an ADU.

2. If an ADU is not exempt from minimum setback requirements, a setback of at least four feet is required from the side and rear parcel lines. Where a parcel line is located in the center of a public right-of-way, setbacks will be calculated from the edge of the right-of-way.

I. ADUs must be compatible in exterior appearance with the primary dwelling and harmonious with neighboring properties within the vicinity of the lot or parcel on which it is proposed to be constructed.

J. The maximum allowable size for an ADU is:

1. For an ADU attached and/or within the primary single-family dwelling, a maximum of 50 percent of the total floor area of the primary single-family dwelling or 1,200 square feet, whichever is less;

2. Detached ADUs cannot exceed 1,200 square feet;

3. Nothing in this section is meant to prohibit an ADU up to 850 square feet, or 1,000 square feet for a two-bedroom unit.

4. An ADU cannot be smaller than the dimensions required to accommodate an Efficiency Unit.

K. Number of Units Per Lot.

1. A total of one ADU or one JADU is permitted per lot with an existing or proposed primary single-family dwelling, subject to the requirements of this chapter.

2. One ADU or 25 percent of the existing multifamily dwelling units, whichever is greater, within an existing multifamily dwelling. Not more than two detached ADUs per lot with an existing multifamily dwelling if the ADUs are new construction, detached, more than 16 feet in height, and set back from the rear and side yards by four feet.

L. Location. ADUs are permitted as follows:

1. Except as otherwise provided, by right in any zone where residential uses are permitted. ADUs are not, however, permitted in any area of the City identified by ordinance as being significantly impacted by insufficient capacity for sewers, traffic circulation, parking, public utilities or similar infrastructure needs.

2. Contained within the existing or proposed space of a primary single-family dwelling or attached to a primary single-family dwelling.

3. Within the space of an existing accessory structure.

4. Detached from the primary single-family dwelling, subject to the requirements and development standards in this code and California law.

5. ADUs must be located behind the rear building line of the primary dwelling, unless the ADU is within the existing space of a single-family residence or accessory structure.

6. If the ADU is new construction, a minimum of 10 feet (eave to eave) must be provided between a detached ADU and the primary dwelling and a minimum building separation of five feet (eave to eave) must be maintained between the detached ADU and any other non-habitable building or structure.

21.50.050 **Certificate of Occupancy.** ADUs may only be constructed in conjunction with either an existing or proposed single-family dwelling or an existing multifamily dwelling. A certificate of occupancy will not be issued for an ADU before a certificate of occupancy is issued for the primary dwelling(s). Before a certificate of occupancy for an ADU is issued, the property owner must record with the County Recorder a covenant running with the land stating that the ADU may not be used in violation of this section, and any rental of the ADU must be for a term of 30 days or longer. The covenant must be approved as to form by the City Attorney.

21.50.060 **Owner Occupancy.** Owner occupancy is required for any ADU constructed subject to a building permit issued after January 1, 2025. Subject to this subsection, property owners must either occupy the primary dwelling or the ADU as their permanent home and principal residence. A violation of this subsection will result in revocation of the ADU permit.

21.50.070 **Uniform Codes.** All ADUs and JADUs must comply with all applicable building and fire codes, state habitability requirements, and health and safety codes, unless where explicitly exempted by Government Code §§ 65852.2 or 65852.22.

21.50.080 **Standards for JADUs.**

A. Number of Units Per Lot.

1. A total of one JADU is permitted per lot in residential zones improved with only one existing or proposed primary single-family dwelling, subject to the requirements of this section.

2. A JADU is not allowed on any lot with an existing or proposed multifamily dwelling.

B. Additional requirements.

1. JADUs must include a separate entrance from the main entrance of the primary single-family dwelling.

2. JADUs must include an efficiency kitchen with a cooking facility, appliances, a food preparation counter and storage cabinets that are reasonably sized with relation to the JADU.

3. The JADU must include separate sanitation facilities or must share sanitation facilities with the primary single-family dwelling.

4. Owner occupancy is required for all JADUs unless the property owner is another government agency, land trust or housing organization. For the purposes of this requirement, the owner must occupy either the JADU or the primary single-family dwelling as their permanent home and principal residence.

5. No additional parking is required for a JADU.

6. The maximum size for any JADU is 500 square feet.

21.50.090 **Permit Application.** An application for an ADU or JADU use must comply with the following:

A. Unless the application otherwise requires a conditional use permit, variance or other discretionary approval, the City Planner will review the application. Applications must be accompanied by an application-review fee as established by City Council resolution.

B. After receiving a complete application, the City Planner must approve, approve with conditions, or deny the application within 60 days. The City Planner's review of the application may be extended upon written request from the applicant. For all such requests, the City Planner will have 60 days from the tolling date to act on the application. Any denial of an application will require that a new application be filed.

C. For ADU or JADU applications submitted with an application to construct a new primary dwelling, the City Planner has 60 days from the date the City acts on primary dwelling unit application to act on the permit application for an ADU or JADU.

D. Approval of an ADU or JADU cannot be conditioned on a requirement that the applicant correct a legal nonconforming condition on the property.

E. Fire sprinklers for ADUs are required only when they are required for the primary dwelling on the lot.

F. Before obtaining a JADU permit, the property owner must file with the county recorder a covenant and agreement, approved by the City Attorney as to form, containing a reference to the deed under which the property was acquired by the owner and stating that:

1. The JADU cannot be sold separately from the primary dwelling;

2. The JADU is restricted to the maximum size allowed per the development standards in this chapter;

3. The JADU is legal so long as either the primary dwelling or the JADU is occupied by the owner of record of the property;

4. The restrictions are binding upon any successor in ownership of the property and lack of compliance may result in legal action against the property owner; and

5. The JADU cannot be rented for any period less than 30 days.

21.50.100 **Building Permit Approval.** Subject to the requirements of this chapter, the Building Official may issue a building permit to create any of the following within any lot permitted to be developed with a residential dwelling unit:

A. One ADU per lot with a proposed or existing primary single-family dwelling, if the ADU:

1. Will be located within the primary single-family dwelling. For the purposes of this subsection, "located within" includes an expansion of not more than 150 square feet beyond the physical dimensions of the existing primary single-family dwelling to accommodate egress and ingress;

2. Has exterior access; and

3. Will be sufficiently set back from the side and rear for fire safety.

B. One JADU per lot with a proposed or existing primary single-family dwelling, if the JADU:

1. Will be located within the primary single-family dwelling. For the purposes of this subsection, "located within" includes an expansion of not more than 150 square feet beyond the physical dimensions of the existing primary single-family dwelling to accommodate egress and ingress;

2. Has exterior access;

3. Will be sufficiently set back from the side and rear for fire safety; and

4. Complies with the provisions outlined in this section for JADUs.

C. One new detached ADU on a lot with an existing primary single-family dwelling, where the ADU is set back at least four feet.

D. Multiple ADUs on a lot with an existing multifamily dwelling, where the ADUs are proposed within areas not currently used as living space (including, without limitation, boiler rooms, storage rooms, passageways, attics, basements and garages) provided that each unit complies with state building standards for

habitability.

E. For ADUs and JADUs that do not meet the criteria set forth in subsections (A) and (B) above, the City may require a new or separate utility connection directly between the unit and the utility. This connection may be subject to a connection fee or capacity charge, in an amount proportionate to the burden of the proposed unit on the water or sewer system, based upon either its square footage or number of drainage fixture unit values (as defined in the Uniform Plumbing Code). In no event may this fee or charge exceed the reasonable cost of providing the service.

21.50.110 **Income Reporting.** In order to facilitate the City's obligation to identify adequate sites for housing in accordance with Government Code §§ 65583.1 and 65852.2, the following requirements must be satisfied:

A. With the building permit application, the applicant must provide the City with an estimate of the projected annualized rent that will be charged for the ADU or JADU.

B. Within 90 days after each yearly anniversary of issuance of the building permit, the owner must report the actual rent charged for the ADU or JADU during the prior year. If the City does not receive the report within the 90-day period, the City may send the owner a notice of violation and allow the owner another 30 days to submit the report. If the owner fails to submit the report within the 30-day period, the City may enforce this provision in accordance with applicable law.

21.50.120 **Application for Address Number.** Any ADU or JADU which includes a separate entrance from the main entrance of the primary dwelling, or which will be improved with a new or separate utility connection directly between the unit and the utility, must submit an application for an address number. Address numbers will be allocated by the Building Official pursuant to the procedures outlined in this Code. Address numbers must be placed over the entrance to the ADU or JADU or on some other place where the number can be visible from the street. When required by the Fire Chief, address identification must be provided in additional approved locations to facilitate emergency response. Additionally, address numbers must also be permanently added to the side of the curb or on a public sidewalk located immediately in front of the main building on a site, pursuant to the California Residential Code and to the satisfaction of the Building Official.

21.50.130 **Fees.**

A. For all ADUs larger than 750 square feet, the applicant must pay development impact fees proportional to the square footage of the primary dwelling. These fees will be established by resolution of the City Council.

B. A reasonable inspection fee may be charged for the inspection of a JADU by the city. The inspection fee will be assessed to the property owner. The fee for inspection will be established by resolution of the City Council.

C. A reasonable construction fee may be charged for any construction permits required. The construction fee will be assessed to the property owner. These fees will be established by resolution of the City Council.

D. An ADU will not be considered a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless the ADU is constructed simultaneously with a new primary single-family dwelling.

21.50.140 **Prohibited Conduct.**

A. Unless permitted as an ADU or JADU pursuant to this section, it is unlawful for any accessory building(s) (either attached or detached), room(s), space(s), structure(s) or building(s) to be rented or used as a separate dwelling unit.

B. No ADUs or JADUs may be rented in violation of this code.

C. It is unlawful for an ADU or JADU to exist without an address issued in accordance with this code or other City Council resolution.

21.50.150 **Enforcement.** Before any enforcement action may occur to correct a violation of this chapter, the City Planner must take the following action:

A. Serve written notice on the responsible person that includes a statement that the owner of the unit has a right to request delay in enforcement pursuant to Health and Safety Code § 17980.12.

B. If a responsible makes such a request, it must be in writing, filed with the City Clerk within 10 days after service of the notice of violation, and include the following information:

1. Name, address and telephone number of each responsible party who is making the request for delayed enforcement;

2. The address and description of the real property upon which the ADU is located;

3. Grounds for the request in sufficient detail to enable the Hearing Officer to understand the basis why correcting the violation is not necessary to protect health and safety;

4. The length of the delay requested (not more than five years);

5. The date the ADU was built; and

6. The signature of at least one responsible party.

C. The Hearing Officer must grant the request for delayed enforcement if:

1. He or she determines that, after consulting with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Health and Safety Code §13146, correcting the violation is not necessary to protect health and safety; and

2. The ADU was built before the effective date of this section."

SECTION 7. A new subsection "8" is added to MPMC § 21.08.040 to read as follows:

"8. This Section is superseded by Chapter 21.50 until December 31, 2024. On January 1, 2025, this Section will be effective."

SECTION 8. *Conflicts.* In the event of a conflict between the provisions of this Ordinance and the provisions the MPMC, any other ordinance, or any resolution, the provisions of this Ordinance and the Program govern. The Director is authorized to resolve any ambiguities in the manner set forth in the MPMC. Any such determination must be forwarded to the City Council as an informational item when practicable.

SECTION 9. *Environmental Review.* This Ordinance was reviewed for compliance with the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; "CEQA Guidelines"). The Ordinance is exempt from additional environmental review pursuant to Public Resources Code § 21080.17 and CEQA Guidelines § 15282(h) because it is an Ordinance implementing the provisions of Government Code §§ 65852.1 and 65852.2 regarding accessory dwelling units in a single-family or multifamily residential zone.

SECTION 10. *Electronic Signatures*. This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

SECTION 11. *Construction*. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

SECTION 12. *Severability*. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

SECTION 13. *Recordation.* The City Clerk, or his duly appointed deputy, is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of

Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 15 days after the passage and adoption of this Ordinance, and cause it to be published or posted in accordance with California law.

SECTION 14. *Effective Date*. This Ordinance will become effective 30 days after second reading and adoption.

ORDINANCE NO. _____ WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MONTEREY PARK AT ITS REGULAR MEETING OF SEPTEMBER 2, 2020.

_____
Peter Chan, Mayor

ATTEST:

_____
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

_____
Natalie C. Karpeles, Deputy City Attorney

ATTACHMENT - 2
Current Accessory Dwelling Unit Provisions (MPMC § 21.08.040)

21.08.040 Limitations and Special Standards.

The land uses listed in Table 21.08(A) and Table 21.08(B) designated with the letter "L" are explained below.

(A) **Accessory Dwelling Unit.** In the R-1 (Single-Family Residential) Zone developed as a single-family dwelling, a maximum of one accessory dwelling unit is permitted, subject to the following limitations:

(1) The design and incorporation of an accessory dwelling unit on a single-family residential property must meet the following requirements:

(a) The accessory dwelling unit must comply with all development standards of the R-1 Zone, including front, rear, and side yard setbacks, except as modified in this section;

(b) No setback is required for an existing accessory building or structure that is converted to an accessory dwelling unit or an existing space within a primary dwelling. For purposes of this subdivision, "existing" means a structure or space that was lawfully constructed as of January 1, 2017;

(c) The accessory dwelling unit may be either attached or detached from the existing primary dwelling and must be located on the same lot as the existing primary dwelling. If detached, the accessory dwelling unit must be located within the rear portion of the parcel. If attached to or within the primary residence, a separate entrance must be provided and said entrance cannot be located on the front of the primary residence or facing the street on which the primary residence fronts;

(d) The increased floor area of an attached accessory dwelling unit cannot exceed fifty (50) percent of the existing single-family dwelling gross floor area, with a maximum increase in floor area of one thousand two hundred (1,200) square feet;

(e) The total gross floor area for a detached accessory dwelling unit cannot exceed one thousand two hundred (1,200) square feet;

(f) The accessory dwelling unit must contain no more than two bedrooms and the number of bathrooms cannot exceed the number of bedrooms;

(g) The accessory dwelling unit may not cause the floor area ratio or lot coverage limitations of the property to exceed the limits prescribed by the zone;

(h) The accessory dwelling unit is limited to one story and an overall height of fifteen (15) feet if detached from the primary dwelling;

(i) The accessory dwelling unit must be constructed such that the finished floor elevation of the accessory dwelling unit is not more than two feet above or below the finish floor elevation of the primary unit at the front of the lot;

(j) The accessory dwelling unit must maintain architectural compatibility with the primary dwelling unit, including, without limitation, architectural style, roof type, paint color, finish, details, and other qualities subject to the approval of the City Planner;

(k) The accessory dwelling unit must provide one off-street parking space per bedroom. These spaces may be provided as tandem parking on an existing driveway. Parking designated for the accessory dwelling unit must be provided in addition to the minimum parking required for the primary unit. All off-street parking areas and automobile areas for an accessory dwelling unit must be finished with a permeable surface including, without limitation, gravel, permeable pavers, and turf block. Notwithstanding the foregoing, such parking standards are not required in the following instances:

(i) The accessory dwelling unit is located within one-half mile of public transit,

(ii) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure,

(iii) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(2) An accessory dwelling unit may not be sold or transferred separately from the primary dwelling.

(3) The applicant for an accessory dwelling unit must be the owner/occupant of the primary unit, but may reside in the accessory dwelling unit once completed.

(4) A covenant, in a form approved by the City Attorney, must be signed by the property owner, and must be submitted to the City Planner. The covenant must be recorded with the County Recorder's office and a certified copy of said recorded covenant must be filed with the City Planner before the City issues a building permit to build an accessory dwelling unit. The covenant will require owner occupancy of either the primary unit or accessory dwelling unit, prohibit the separate sale of the accessory dwelling unit, and prohibit rentals for less than thirty (30) days. Said covenant may not be altered, revoked or canceled without the written consent of the City Planner.

(5) In the event a covenant was previously recorded for a permitted accessory structure restricting the structure as non-habitable pursuant to this Code, before the city issues a building permit for an accessory dwelling unit, the property owner must record a release of such covenant with the county recorder, in a form approved by the City Planner and the City Attorney.

(6) The application must be accompanied by a filing and processing fee in the amount set by city council resolution.

(7) The applicant must pay all required fees, including without limitation, development impact fees pursuant to Chapter 3.110 of this Code.

(B) **Auto Dismantling, Repairing, Assembling.** In all residential zones, subject to the following limitations:

(1) Work cannot be performed within public view.

(2) Work must be performed within an enclosed building or in an area which is completely enclosed by view-obscuring walls, not less than six feet in height, or by the exterior walls of a building or buildings.

(3) Work cannot be performed for commercial purposes.

(4) The vehicle must be owned by a resident of the lot on which the work is being done.

(5) The resident must complete work on one vehicle before beginning on another so that no more than one vehicle for each family living on the lot is in a state of disassembly or dismantlement or is being repaired at one time.

(6) Work must be performed in a manner that will not interfere with the quiet and comfortable enjoyment of adjacent properties by their occupants.

(C) **Child Day Care, Licensed for Eight to Fourteen (14) Children.** In all residential zones, child day care for eight to fourteen (14) children is subject to State and City regulations, including a home occupation business license and the following requirements:

(1) The residence must comply with all property development standards.

(2) The child day care facility cannot be located within three hundred (300) feet of another child day care facility, except when:

(a) The applicant can demonstrate that an existing child day care located within three hundred (300) feet is at capacity; or

(b) The need exists for a particular or unique service not provided by an existing child day care location within three hundred (300) feet.

(3) The outdoor play area of not less than seventy-five (75) square feet per child, but in no case less than four hundred fifty (450) square feet in area, and which includes play equipment, must be provided and secured with proper fencing. The outdoor play area must be located in the rear area. Stationary play equipment cannot be located in required side and front yards.

(4) A six-foot high solid decorative fence or wall must be constructed on all side and rear property lines except in the front yard. Materials, textures, colors and design of the fence or wall must be compatible with on-site development and adjacent properties. All fences or walls must provide for safety with controlled points of entry.

(5) The garage cannot be used as an extension of the family day care facility and cannot be used as part of the outdoor play area.

(6) The facility may operate up to fourteen (14) hours per day. Outdoor activities are restricted to the hours of 8:00 a.m. to 8:00 p.m. per day.

(7) The facility requires an initial on-site inspection and annual inspection thereafter by the City Planner.

(8) On-site landscaping must be consistent with that prevailing in the neighborhood and be installed and maintained.

(9) All on-site parking must be provided pursuant to the provisions of this code. On-site vehicle turnaround or separate entrance and exit points, and adequate passenger loading spaces must be provided.

(10) All on-site lighting must be stationary, directed away from adjacent properties and public rights-of-way, and of intensity appropriate to the use it is serving.

(11) All on-site signage must comply with this code.

(12) The facility must contain a fire extinguisher and smoke detector devices and meet all standards set forth in the California Fire Code, as adopted by this code.

(D) **Home Occupation Permits.**

(1) **Purpose.** The purpose of this section is to allow for home occupations which are compatible with the residential character of the neighborhood in which they are located.

(2) **Procedure.** Home occupations are permitted in the R-1, R-2, and R-3 Zones subject to obtaining a home occupation permit as follows:

(a) **Application.** Application for a home occupation permit must be made on an application form provided by the City Planner and be accompanied by a filing fee established by City Council resolution.

(b) **Conditions of Approval.** In approving a home occupation, the City Planner may include decision reasonable conditions deemed necessary to protect the health, safety and welfare of the community and to ensure the intent of this section.

(c) **Review and Inspection.** Home occupations may be periodically reviewed and an inspection made of the property by the City Planner to verify continued compliance with the necessary criteria and conditions of approval.

(d) **Revocation of Permits.** The City Planner may revoke any home occupation permit for noncompliance with the conditions set forth in approving the permit or inconsistency with this section.

(e) **Appeal Procedure.** Appeals may be taken to the Planning Commission by the applicant or any other person aggrieved by the City Planner's decision pursuant to Chapter 1.10.

(3) **Permitted Home Occupations.** The following businesses are permitted with a valid home occupation permit:

(a) Office use;

(b) Mail ordering;

(c) Home crafts such as model making, basket weaving.

(4) **Home Occupations Prohibited.** Permitted home occupations may not in any event be deemed to include the following:

(a) Auto repair;

(b) Barber shop or beauty salon;

(c) Carpentry work;

(d) Dance instructions;

(e) Funeral chapel or funeral home;

(f) Gift shop;

(g) Medical or dental offices, labs, clinics, or hospitals;

(h) Auto, boat and trailer painting;

(i) Photo studio;

(j) Private schools;

(k) Renting of equipment and/or trailers;

(l) Appliance repairs;

(m) Eating establishment;

(n) Kennel;

(o) Tailors, dressmakers, upholstery;

(p) Service uses, personal and professional;

(q) Such other uses that may generate excessive pedestrian or vehicle traffic and that may be obnoxious or a nuisance to adjacent residents such as noise, odor, or appearance as determined by the City Planner, or that violate the use limitations provided in subsection (5) of this section.

(5) **Use Limitations.** In addition to the limitations applicable in the zone in which the use is located, all home occupations are subject to the following use limitations:

(a) One home occupation per address.

(b) In the primary residence of the applicant proposing to conduct the business.

(c) A home occupation is limited to paperwork only, conducted entirely within the designated room of the home, and may not have a need for any type of vehicle to transport materials or equipment used in conjunction with the business other than a private automobile.

(d) No employment of help other than members of the resident family.

(e) The home occupation use must be incidental to the primary use of the structure as a residential use and cannot detract from the residential character of the neighborhood. Not more than two hundred (200) square feet or ten (10) percent of the floor area, whichever is less, may be used in connection with a home occupation or for storage purposes in connection with a home occupation.

(f) No direct sales of product or merchandise from the home.

(g) No traffic can be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation must be met off the street. Visitor, customers, or deliveries cannot exceed that normally and reasonably occurring for a residence as determined by the City Planner and this code.

(h) No home occupation can be conducted in any accessory building or space outside of the main building such as the accessory dwelling unit, garage or storage building.

(i) There may not be any on-site storage of materials other than samples.

(j) The home occupation may not involve use of advertising signs on the premises or any other external on-site advertising media which calls attention to the fact that the house is being used for a business purpose.

(k) There may not be any alteration of utilities or installment of special equipment for the purpose of accommodating the proposed home occupation.

(l) A maximum of one three-quarter ton vehicle may be kept in conjunction with an approved home occupation use if approved by the City Planner.

(m) Under no circumstances may the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character whether by the use of colors, materials, construction, lighting, signs, or the emission of sound, noise, or vibration.

(n) The street address of the residence may not be used for advertisements.

(o) All respects of the home occupation must be conducted entirely within an enclosed structure. Supplies, tools, equipment, goods, samples and other items relating to a home occupation cannot be stored or displayed outside or at any location within a structure where they will be visible to passing pedestrian or vehicular traffic.

(p) There may not be any use of any equipment which may cause radio or television interference or fluctuation in line voltage off the property.

(q) There may not be any process, procedure, substance, or chemical used which is hazardous to public health, safety, morals or welfare.

(E) **Household Pets.**

(1) In the R-1 Zone, not in excess of three household pets, which includes, without limitation, dogs, cats, pigs, canaries, parrots, and other similar animals and birds usually and ordinarily kept as household pets.

(2) In the R-2 and R-3 Zones, not in excess of two household pets for each dwelling unit.

(F) **Mixed Use Development.** In the R-2 and R-3 Zones, mixed-use projects are limited to the Mixed-Use Overlay Zone and are subject to the restrictions and development standards of that Overlay Zone. See Chapter 21.14.

(G) **Mobile Home.** In all residential zones developed as single-family dwelling unit, subject to the following limitations:

(1) One mobile home on a permanent foundation.

(2) Such unit was issued an insignia of approval from the California Department of Housing and Community Development or the U.S. Department of Housing and Urban Development pursuant to Health and Safety Code Section 18550(b).

(3) Such unit has a roof with a pitch of not less than two-inch vertical rise for each twelve (12) inches of horizontal run and consisting of roofing material customarily used for conventional single-family residences and is consistent with the primary unit on the lot and compatible with other dwelling units in the area as approved by the City Planner.

(4) Such unit must have porches and eaves, or roof with eaves when, in the opinion of the City Planner, they are necessary to make the unit compatible with other dwellings in the area.

(5) Such unit is covered with an exterior siding material customarily used on conventional dwellings and approved by the City Planner. The exterior material must extend to the ground except that when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation.

(H) **Portable Canopy.** In all residential zones, subject to the following limitations:

(1) There is no limit on the number of portable canopies permitted on a residential zoned property, except that any and all canopies must comply with the maximum square footage specified below.

(2) A portable canopy is allowed only adjacent to the side or at the rear of a residential unit.

(3) A portable canopy must be constructed with a durable material, such as, without limitation, a canvas or vinyl material, which is securely anchored in place and properly maintained to present a neat and orderly appearance. The canopy is required to be replaced if they become torn, tattered or in disrepair.

(4) A portable canopy cannot exceed a height of fifteen (15) feet at the highest point and is limited to a maximum square footage of two hundred forty (240) square feet total for all portable canopies.

(I) **Recreational Vehicle Parking.** See Chapter 21.22, Off-Street Parking Regulations.

(J) **Storage of Construction Materials.** In all residential zones, the storage of building materials is permitted during construction of any building or part thereof.

(K) **Wireless Communication Facility.** Subject to regulations set forth in Chapter 21.34.

(L) **Yard Sales.** In all residential zones, subject to the following limitations:

(1) Not more than two sales per address may be conducted per calendar year;

(2) No such sale can continue more than two consecutive days or three days on extended national holidays. Inclement weather may extend the period of time equal to the days lost;

(3) Such sales can be conducted only during the hours of 8:00 a.m. and 6:00 p.m.;

(4) The merchandise for sale may consist of the property owner's or occupant's personal goods. Outside consignments, lot purchases, and the like, for the purpose of resale is prohibited;

(5) The sales area may be conducted on any portion of the ground area of the property outside of the residential dwelling unit. No merchandise may be placed on any public property or right-of-way;

(6) Only one sign may be placed on the premises. The sign cannot exceed six square feet. No signs shall be placed on any public property (i.e., utility pole, traffic sign), right-of-way or vehicle parked on a public street, alley or private easement;

(7) Such applicant must pay a fee for each permit in the amount set forth by resolution of the council adopted pursuant to applicable law. A copy of a validly issued permit must be displayed at the site of the sale at all times during such sale.

(M) **Renting.** For purposes of this subsection, "renting" means occupying a dwelling unit in exchange for remuneration; each person giving remuneration in exchange for occupying a dwelling unit is a tenant. Renting not more than three sleeping rooms per dwelling unit for occupancy is allowed within all residential zones subject to the following limitations:

(1) Sleeping rooms cannot be rented for a period of less than thirty (30) days.

(2) Not more than two persons are permitted to occupy one sleeping room.

(3) Meals may be provided in connection with such renting, or the dwelling's kitchen facilities may be shared with tenants.

(4) These regulations do not apply to the following uses if otherwise permitted by this code: boarding houses, licensed community care facilities, rehabilitation facilities, licensed home care facilities, or sober living facilities, congregate care facilities, fraternity/sorority house, senior housing facilities, supportive housing or transitional housing. (Ord. 2147 § 6, 2018; Ord. 2132 § 1, 2016; Ord. 2131 § 2, 2016; Ord. 2118 § 11, 2015; Ord. 2097 § 3, 2013)

ATTACHMENT - 3
New State Law on Accessory Dwelling Units (Government Code Sections)

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] *(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66301] *(Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4. Zoning Regulations [65800 - 65912] *(Chapter 4 repealed and added by Stats. 1965, Ch. 1880.)*

ARTICLE 2. Adoption of Regulations [65850 - 65863.13] *(Article 2 added by Stats. 1965, Ch. 1880.)*

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be

tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family home.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Amended by Stats. 2019, Ch. 659, Sec. 1.5. (AB 881) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions. See later operative version added by Sec. 2.5 of Stats. 2019, Ch. 659.)

GOVERNMENT CODE - GOV

TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] *(Heading of Title 7 amended by Stats. 1974, Ch. 1536.)*

DIVISION 1. PLANNING AND ZONING [65000 - 66301] *(Heading of Division 1 added by Stats. 1974, Ch. 1536.)*

CHAPTER 4. Zoning Regulations [65800 - 65912] *(Chapter 4 repealed and added by Stats. 1965, Ch. 1880.)*

ARTICLE 2. Adoption of Regulations [65850 - 65863.13] *(Article 2 added by Stats. 1965, Ch. 1880.)*

65852.22. (a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence built, or proposed to be built, on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence.

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the proposed or existing single-family residence.

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

(A) A cooking facility with appliances.

(B) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine if the junior accessory dwelling unit complies with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.

(d) For purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.

(e) For purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.

(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.

(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(Amended by Stats. 2019, Ch. 655, Sec. 2. (AB 68) Effective January 1, 2020.)